

SPECIAL CIVIL APPLICATION No 1762 of 1996

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The petitioner has moved this petition for a direction to the gram panchayat for grant of permission or transit passes for cutting reserve trees after 25th September 1972. The petitioner has also prayed that the

Deputy Collector at Daboi should give reply to his application of 22nd January 1996.

2. On behalf of the respondents, the reply affidavit has come to be filed by respondent No. 2. It has been stated therein that the petitioner's application of 22nd January 1996 was replied to by the Mamlatdar at Daboi on 22nd April 1996. A copy of the petitioner's application of 22nd January 1996 and its reply by the Mamlatdar at Daboi on 22nd April 1996 are at Annexures I and II respectively to the reply affidavit.

3. It becomes clear from the reply affidavit that the petitioner has deliberately suppressed the fact of the reply at Annexure II to the reply affidavit to his application of 22nd January 1996. Instead, he has tried to suggest that no reply thereto was given by or on behalf of the respondents more particularly by or on behalf of respondent No. 2 as transpiring from his prayer clause that a direction may be given to respondent No. 2 to give reply to his application of 22nd January 1996. This petition thus suffers from the vice of suppressio veri and suggestio falsi. This petition therefore deserves to be rejected on this ground alone.

4. Learned Assistant Government Pleader Shri Uraizee has invited my attention to the decision of this Court in Special Civil Application No. 1946 of 1988 decided on 5th August 1988. Its copy is at Annexure III to the reply affidavit. It has clearly been held therein that the authority to issue transit passes to cut trees is not given to any panchayat and such transit passes can be issued by the concerned forest officers in terms of sec. 41 of the Indian Forests Act and rules 66 and 67 of the Bombay Forests Rules. The petitioner in this petition has sought direction to be given to the concerned gram panchayat to issue transit passes. It cannot be given in view of the aforesaid decision of this Court. Even on merits, this petition cannot be accepted.

5. In the result, this petition fails. It is hereby rejected. Since the petitioner is found guilty of suppression of facts and suggestion of falsehood, the petitioner is directed to pay compensatory costs to the respondents in the sum of Rs. 5000/-. Rule is accordingly discharged subject to the order of costs as aforesaid.

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